

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF WEST VIRGINIA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Criminal No. 1:12-CR-100-1

PATRICK FRANKLIN ANDREWS,

Defendant.

**UNITED STATES' NOTICE OF INTENT TO SEEK THE DEATH PENALTY AS TO
DEFENDANT PATRICK FRANKLIN ANDREWS**

The United States of America, pursuant to 18 U.S.C. § 3593(a), notifies the Court and the defendant, PATRICK FRANKLIN ANDREWS, that the Government believes the circumstances of the offenses charged in the Indictment are such that, in the event of a conviction, a sentence of death is justified under Chapter 228 (Sections 3591 through 3599) of Title 18 of the United States Code. Accordingly, the government intends to seek a sentence of death upon the conviction of the defendant, PATRICK FRANKLIN ANDREWS, for the capital offense charged in the Indictment, to wit: Count One, 18 U.S.C. § 1118 - Murder by Federal Prisoner Serving a Life Sentence.

The government proposes to prove the following factors justifying a sentence of death as to defendant PATRICK FRANKLIN ANDREWS if he is convicted of Murder by Federal Prisoner Serving a Life Sentence, in violation of 18 U.S.C. § 1118, as alleged in Count One of the Indictment:

As to Count One, the defendant PATRICK FRANKLIN ANDREWS:

a. was 18 years of age or older at the time of the offense (18 U.S.C. § 3591(a)(2));

- b. intentionally killed Jesse Harris (18 U.S.C. § 3591(a)(2)(A));
- c. intentionally inflicted serious bodily injury that resulted in the death of Jesse Harris (18 U.S.C. § 3591(a)(2)(B));
- d. intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and Jesse Harris died as a direct result of the act (18 U.S.C. § 3591(a)(2)(C));
- e. intentionally and specifically engaged in an act of violence, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life, and Jesse Harris died as a direct result of the act (18 U.S.C. § 3591(a)(2)(D));
- f. caused the death of Jesse Harris during the commission of an offense under 18 U.S.C. § 1118 (prisoner serving life term), (18 U.S.C. § 3592(c)(1));
- g. has previously been convicted of a Federal or State offense punishable by a term of imprisonment of more than one year, involving the use or attempted or threatened use of a firearm (as defined in section 921) against another person (18 U.S.C. § 3592(c)(2));
- h. has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or death was authorized by statute (18 U.S.C. § 3592(c)(3));
- i. has previously been convicted of two or more Federal or State offenses, punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person (18 U.S.C. § 3592(c)(4)).

j. represents a continuing danger to the lives and safety of other persons: the defendant is likely to commit criminal acts of violence in the future that would constitute a continuing and serious threat to the lives and safety of others, as evidenced by, at least, one or more of the following: low rehabilitative potential and the commission of other acts of violence.

k. caused injury, harm and loss to the victim and the victim's family and friends, as evidenced by the victim's personal characteristics as an individual human being and the impact of the death upon his family and friends.

The Government further gives notice that in support of imposition of the death penalty on Count One, it intends to rely upon all the evidence admitted by the Court at the guilt phase of the trial, as well as on the offenses described in the Indictment as they relate to the background and character of the defendant, his moral culpability, and the nature and circumstances of the capital offense.

Respectfully submitted,

WILLIAM J. IHLENFELD, II
United States Attorney

By: /s/ Brandon S. Flower
Brandon S. Flower, WVSB #9338
Assistant United States Attorney
United States Attorney's Office
320 W. Pike Street, Suite 300
Clarksburg, WV 26301-2710
Phone number - (304) 623-7030
Facsimile number - (304) 623-7031
Brandon.flower@usdoj.gov

CERTIFICATE OF SERVICE

I certify that on October 23, 2012, I electronically filed the foregoing **UNITED STATES' NOTICE OF INTENT TO SEEK THE DEATH PENALTY AS TO DEFENDANT PATRICK FRANKLIN ANDREWS** with the Clerk using the CM/ECF system, which will send notification of such filing to Harry J. Trainor and Stephen D. Herndon, counsel for defendant Patrick Franklin Andrews.

/s/ Brandon S. Flower
Brandon S. Flower, WVSB #9338
Assistant United States Attorney
United States Attorney's Office
320 W. Pike Street, Suite 300
Clarksburg, WV 26301-2710
Phone number - (304) 623-7030
Facsimile number - (304) 623-7031
Brandon.flower@usdoj.gov